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New York

President:	Mr. Nebenzia/Mr. Kuzmin	(Russian Federation)
Members:	Bolivia (Plurinational State of)	Mr. Inchauste Jordán
	China	Mr. Li Yongsheng
	Côte d'Ivoire	Mr. Djédjé
	Equatorial Guinea	Mrs. Mele Colifa
	Ethiopia	Ms. Guadey
	France	Mrs. Gueguen
	Kazakhstan	Mr. Temenov
	Kuwait	Mr. Almunayekh
	Netherlands	Mr. Van Oosterom
	Peru	Mr. Meza-Cuadra
	Poland	Mr. Radomski
	Sweden	Ms. Schoulgin Nyoni
	United Kingdom of Great Britain and Northern Ireland	Mrs. Dickson
	United States of America	Mr. Simonoff

Agenda

International Residual Mechanism for Criminal Tribunals

Letter dated 13 April 2018 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2018/347)

Letter dated 17 May 2018 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2018/471)

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The meeting was called to order at 10.35 a.m.

Adoption of the agenda

The agenda was adopted.

International Residual Mechanism for Criminal Tribunals

Letter dated 13 April 2018 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2018/347)

Letter dated 17 May 2018 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2018/471)

The President (*spoke in Russian*): In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representatives of Bosnia and Herzegovina, Rwanda, Serbia and Croatia to participate in this meeting.

On behalf of the Council, I welcome Her Excellency Ms. Nela Kuburović, Minister of Justice of Serbia.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite the following briefers to participate in this meeting: Judge Theodor Meron, President of the International Residual Mechanism for Criminal Tribunals, and Mr. Serge Brammertz, Prosecutor of the International Residual Mechanism for Criminal Tribunals.

The Security Council will now begin its consideration of the item on its agenda.

I wish to draw the attention of Council members to documents S/2018/347, which contains the text of letter dated 13 April 2018 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council, and document S/2018/471, which contains the text of a letter dated 17 May 2018 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council.

I now give the floor to Judge Meron.

Judge Meron: It is a privilege to appear once again before the Security Council to provide a briefing on the progress of the work of the International Residual Mechanism for Criminal Tribunals over the past six months, and a great pleasure to do so under the presidency of the Russian Federation.

I would like to take this opportunity to express my appreciation for the considerable attention and efforts devoted to the Mechanism by the members of the Council's Informal Working Group on International Tribunals, in particular in the context of the recent review of the Mechanism's progress in completing its mandate. I am grateful to the members of the Working Group for their sustained support. I wish to express my gratitude to the delegation of Peru for its adept leadership of the Group.

The Office of Legal Affairs continued to provide vital assistance to the Mechanism during the reporting period. I would like to convey my deep appreciation to the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, Mr. Miguel de Serpa Soares, and to the Assistant Secretary-General for Legal Affairs, Mr. Stephen Mathias, and their colleagues for their important contributions to our work.

The Mechanism has undergone a number of key changes since I appeared before the Council in December of last year (see S/PV.8120). Upon the historic closure of the International Tribunal for the Former Yugoslavia (ICTY), at the end of 2017, for the first time since its founding, the Mechanism has begun to stand on its own without the support of its two predecessor tribunals and has taken on the full ambit of the residual functions entrusted to it. For the first time, the Mechanism also assumed full responsibility for a wide array of administrative services essential to the conduct of its mandate. It also continued to carry out a retrial and to conduct a wide range of other proceedings, both inside and outside the courtroom, during a period of heightened judicial activity.

Significantly, the Mechanism has done all of that while facing unprecedented and unexpected challenges with regard to resource constraints and as a result of the rapid implementation of expenditure reductions, the deployment of staff-downsizing measures and the deterioration in staff morale.

The reporting period was therefore an arduous one for the Mechanism in many respects. Yet it also saw the Mechanism and its remarkable staff show resilience and creativity, including addressing new operational risks with resourcefulness and ingenuity and continuing to seek novel ways to enhance the conduct of the

Mechanism's mandate. In that context, I wish to express my particular gratitude to Registrar of the Mechanism, Mr. Olufemi Elias, and his team for their perseverance in the handling of the Mechanism's unprecedented budget situation and its myriad implications for the institution.

I would like to acknowledge my fellow judges for their work leading to another significant development — the adoption in April of a revision to the Code of Professional Conduct for the Judges of the Mechanism, which introduces a new procedure by which judges made themselves accountable for adhering to the principles set forth in the Code. That important advancement once again demonstrates the Mechanism's commitment to best practice and to serving as a model for accountability in all areas. That is but one example of an important milestone reached during the reporting period. I will keep my remaining remarks brief and touch upon only a few of the matters discussed more extensively in my written report submitted on 17 May (see S/2018/471).

The Mechanism continued to make important strides during the reporting period in the conduct and completion of its judicial work. The appeal hearing in the case *Prosecutor v. Vojislav Šešelj* was conducted on 13 December 2017, with the judgement delivered on 11 April 2018. An appeal hearing in the case *Prosecutor v. Radovan Karadžić* was conducted on 23 and 24 April, ahead of the projections made last November. The aim is to complete the case in December, considerably earlier that previously predicted.

In the meantime, the retrial of the case *Prosecutor v. Jovica Stanišić and Franko Simatović* is proceeding apace, with the prosecution's presentation of its case ongoing. Appeal proceedings are under way in the case *Prosecutor v. Ratko Mladić*, with both the prosecution and Mr. Mladić having filed notices of appeal and briefings in progress. Review proceedings in the case *Prosecutor v. Augustin Ngirabatware* are likewise continuing, following the withdrawal and replacement of his counsel. A hearing in that case, originally scheduled for February, is now expected to be conducted in the latter half of this year.

A host of additional ad hoc judicial matters are also pending before the Mechanism, involving everything from motions concerning allegations of contempt of court to applications to vary the protective measures granted to vulnerable witnesses. As indicated in my written report, the filing of such ad hoc judicial requests before the Mechanism can be expected to continue for some time to come.

Good progress is being to made on a number of other fronts as well. With regard to the enforcement of sentences, for instance, during the reporting period the Mechanism transferred eight convicted persons from the United Nations detention facility in Arusha to enforcement States, including four individuals to Senegal and four to Benin. The Mechanism is continuing in its efforts to address enforcement needs for the remaining convicted persons at both branches. It is our aim, subject to the cooperation of States, to complete the transfer of all finally convicted persons currently held at either the United Nations detention facility in Arusha or the United Nations detention unit in The Hague before the end of this year. If this is achieved, it will represent a major step forward towards the completion of our mandate in this area. The Mechanism expresses its appreciation to Member States currently enforcing sentences or considering doing so for their vital support.

Important milestones were reached during the current reporting period in the area of archives management as well, with the handover of the final and substantial tranche of physical and digital records from the ICTY to the Mechanism and the relocation of the physical records of the International Criminal Tribunal for Rwanda into the custom-built archives facility in Arusha. The Mechanism has continued its efforts aimed at increasing and enhancing the accessibility of records in its custody throughout the reporting period, including by expanding the availability of judicial records on publicly searchable databases and providing technical support and advice to important external projects, such as the new Sarajevo information centre on the ICTY, launched just days ago.

Subject to resource constraints, the Mechanism looks forward to providing support for initiatives to further develop such information and documentation centres in the former Yugoslavia in the months to come, in keeping with the Security Council's guidance in resolution 1966 (2010), and to the continued exploration of ways in which the Mechanism's cooperation with the Government of Rwanda can be enhanced, in line with resolution 2256 (2015). In the meantime, the Mechanism continues to carry out other key residual functions entrusted to it, from the provision of assistance in support of accountability efforts in national jurisdictions to the ongoing monitoring of cases referred to national courts

to the delivery of essential witness-protection services. In doing all of this, the Mechanism strives to adhere to the highest standards and to seek out ever-greater efficiencies by deploying innovation and creativity at every turn.

In this context, I wish to underscore the Mechanism's appreciation of the work of the Office of Internal Oversight Services (OIOS), which, in addition to its regular audits of specific aspects of the Mechanism's operations, completed a broader evaluation of the Mechanism's implementation of its mandate during the 2016-2017 period. We welcome all confirmations by OIOS of the Mechanism's achievements in everything from ensuring trial readiness to increasing cost-efficiency and streamlining workflows in key areas. But we are also just as grateful for the feedback and recommendations from OIOS on ways in which the Mechanism can improve its methods and work, such as by enhancing cross-branch coordination to strengthen the Mechanism's one-institution approach, restructuring the provision of administrative services to better address the needs at both branches and deploying human-resource tools to monitory gender parity.

If international justice and the fight to create a global culture of accountability are to succeed in the long run, it will be possible only if we remain open to such improvement, innovation and creative problem-solving, whether it is my colleagues and I at the Mechanism or, as suggested by the valuable open debate conducted recently in this Chamber under the Polish presidency (see S/PV.8264), the members of the Council themselves. It will be possible only if we continue to work together, maintaining an unerring focus on the core principles underlying not just the Mechanism's establishment, but the work of the United Nations more generally for this ongoing commitment and for this sustained and sustaining support that the members of the Security Council continue to provide to the Mechanism, and to broader efforts aimed at ensuring principled accountability for serious violations of international law.

The President: I thank President Meron for his briefing.

I now give the floor to Mr. Brammertz.

Mr. Brammertz: I thank you, Mr. President, for this opportunity to once again address the Security Council on the activities of the Office of the Prosecutor. My written report provides details about our activities and results during the reporting period in relation to our usual three priorities (S/2018/471, annex II).

With regard to the branch in The Hague, we worked to expeditiously complete our last judicial activities, with only three cases now remaining. With regard to the branch in Arusha, my Office undertook intense efforts to locate and arrest the remaining eight fugitives indicted by the International Criminal Tribunal for Rwanda (ICTR). And at both branches, we continued to provide full support to national authorities in relation to the prosecution of serious international crimes committed in Rwanda and in the former Yugoslavia.

As part of the review of the work of the Mechanism, the Office of Internal Oversight Services (OIOS) evaluated my Office's work and methods. OIOS concluded that my Office operated with a small staff and tight resources as the Security Council had mandated. It noted that we were effective in planning, restructuring and refining our operational methods. It also identified a number of cost efficiencies that we successfully implemented, including our one-Office policy. At the same, OIOS identified that the high workload, together with organizational downsizing, had an impact on staff morale, particularly at the branch in The Hague. My Office will work to address that issue.

The review process established by the Council is an important exercise. My Office is also very grateful to all participants for their time, attention and constructive engagement. Our common goal is achieving our mandate through efficient and effective management. As a temporary institution, my Office regularly develops projections for the completion of our functions. Looking forward, I would like to briefly outline anticipated developments for the next few years.

At The Hague branch, we will continue finalizing our judicial activities. My Office will progressively reduce our staff and resources as these last cases are completed. With the appeal judgement in the *Šešelj* case issued two months ago, and the scheduled completion of the *Karadžić* appeal before the end of the year, there will only be two remaining cases. The President has reported that the *Stanišić and Simatović* trial and the *Mladić* appeal are expected to be completed by the end of 2020. That would then only leave appeal proceedings, if any, in the *Stanišić and Simatović* case.

Accordingly, we will be increasingly focused in The Hague on our remaining continuous functions, the most significant of which will be responding to

requests for assistance from national jurisdictions in relation to our quite extensive evidence collection. As set out in our review report, we anticipate that the number and complexity of requests for assistance will further increase in the coming few years. Countries of the former Yugoslavia have indeed established national war crimes strategies to intensify prosecutions, and have requested our support. We also anticipate that more cases will move forward once challenges in regional judicial cooperation are overcome. Sufficient staff and resources will still be needed temporarily for my Office to address this workload.

At the same time that judicial activities are winding down in The Hague, my Office anticipates that an increase in judicial activities at the Arusha branch will take place. In fact, that process has already begun. That expectation is informed by three main factors.

First, as we outlined in our progress report, at the Arusha branch there has been an increase in review and related litigation initiated by the defence. We expect that there will continue to be a greater workload in that regard than during the first four years of the Mechanism's operations.

Secondly, as I have previously reported to the Council, my Office is significantly increasing our efforts to locate and arrest the remaining eight fugitives indicted by the ICTR and ensure those cases are ready for trial. We restructured our tracking team, and adopted a more proactive approach to our work. Those reforms have been matched by a temporary increase in resources on the clear understanding that we have a limited amount of time to demonstrate a successful track record.

While the challenges in tracking fugitives are too significant to guarantee a positive outcome, my Office can confirm that we will spare no effort. The victims of the genocide against the Tutsi in Rwanda deserve nothing less. In that regard, I call upon all States to provide full cooperation to my Office. This is an opportunity, not only an obligation. By successfully arresting a fugitive in coordination with my Office, States can clearly demonstrate their commitment to multilateralism and the rule of law.

Finally, my Office anticipates that over the next few years, there will be an increase in the volume of requests for assistance in relation to our ICTR evidence collection. My Office is strengthening our cooperation with Rwandan authorities, in particular with the Prosecutor General's Office. We are also initiating a project to improve access to our evidence. My Office is committed to managing all developments consistent with the Council's mandate for a lean and cost-effective organization.

The final topic I would like to address today is the search for missing persons in the former Yugoslavia. Over the past six months, many stakeholders have taken the initiative to raise that issue with my Office and seek our assistance, including the International Committee of the Red Cross (ICRC), the Presidents of Croatia and Serbia and missing persons authorities in Bosnia and Herzegovina.

Efforts are urgently needed to strengthen the search for missing persons. There are 10,000 families — from all sides of the conflict — that still do not know the fate of their loved ones. The ICRC is launching a five-year strategy to further support local mechanisms, which are also improving their methods and cooperation. My Office is committed to providing all possible assistance as requested.

Yet Governments have made many commitments to support that work that remain only on paper. Long-standing recommendations have still not yet been implemented years later. Financial support from national budgets is limited and insufficient. Political will is also needed to create the conditions for witnesses to come forward with information. Glorifying war criminals surely has the opposite effect. The search for missing persons is a humanitarian imperative. It is time for political authorities to be held accountable for their commitments, and to show the courage to put aside all other considerations.

My Office is firmly focused on carrying out our remaining responsibilities efficiently and effectively. We also remain committed to providing our full support to national prosecutors and missing persons authorities in the former Yugoslavia and Rwanda.

The President (*spoke in Russian*): I thank Mr. Brammertz for his briefing.

I now give the floor to the members of the Security Council.

Mr. Meza-Cuadra (Peru) (*spoke in Spanish*): I would like to thank Judge Theodor Meron, President of the International Residual Mechanism for Criminal Tribunals, and Mr. Serge Brammertz, Prosecutor of the International Residual Mechanism for Criminal

Tribunals, for their briefings. I would also like to convey my gratitude for the twelfth report that has been submitted under resolution 1966 (2010) (see S/2018/471).

Peru, which is committed to multilateralism and international law, is honoured to preside over the Informal Working Group on International Tribunals. We took that Office in succession to Uruguay and its representative, Ambassador Elbio Rosselli. It should be recalled that the Informal Working Group deals with issues related to the International Residual Mechanism for Criminal Tribunals, as the repository of the functions of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), and that the Mechanism is currently in the process of being reviewed and renewed, in accordance with the need to ensure accountability and prevent impunity.

Peru believes that the development of international criminal law, a process to which the Council has contributed, is vital to ensuring that justice is served, promoting reconciliation, deterring potential perpetrators from committing atrocity crimes and, ultimately, promoting sustainable peace. In that regard, we also believe that the Security Council, which is responsible for maintaining international peace and security, should stand united in its support for the Residual Mechanism.

We would like to commend the transparent, expeditious, efficient and effective way in which the Mechanism has carried out its mandates and the trials with which it is currently seized. That is particularly important given the closure of the ICTY last December.

We underscore the steps taken to implement the recommendations contained in the report of the Office of Internal Oversight Services (S/2018/206), and take note of the amendments made to the Rules of Procedure and Evidence, which call for balancing the different approaches of the Romano-Germanic and the Anglo-Saxon legal systems. Moreover, we wish to welcome the willingness of several African and European Governments to allow convicted persons to serve their sentences in their respective countries, and underscore the need to bring the remaining fugitives to justice.

We stress, in that regard, that the success of the Mechanism depends to a large extent on the cooperation of States in complying with the judgements, abiding by the orders and responding to the Mechanism's requests for assistance. We also note the concern raised about the early release of persons convicted by the Special Tribunal for Rwanda, some of whom have expressed no regrets about their crimes. In that regard, we encourage the Mechanism to assess options within the framework of relevant procedures to address that concern.

I conclude by reiterating Peru's commitment to the promotion of justice, the rule of law and accountability, as well as to the work of the Council's Informal Working Group on International Tribunals, and by thanking the Office of Legal Affairs and the Security Council secretariat for their continued support.

Mrs. Dickson (United Kingdom): I would like to thank the President of the International Residual Mechanism for Criminal Tribunals, Judge Theodor Meron, and the Prosecutor, Mr. Serge Brammertz, for their briefings to the Council today and their recent reports (see S/2018/347 and S/2018/471).

The Residual Mechanism has now entered an important phase of its mandate. With the closure of the International Criminal Tribunal for Rwanda (ICTR) and, at the end of last year, the International Tribunal for the Former Yugoslavia (ICTY), it is now the Mechanism's sole responsibility to continue the work of those Tribunals. Over the past decades, both Tribunals shone a spotlight on some of the worst atrocities witnessed in modern times. They showed that there would be no impunity for those who have perpetrated the most egregious of crimes. Resolution 1966 (2010), which established the Mechanism, provides it with the mandate it needs to ensure that the legacy of the ICTY and ICTR is carried on. As members of the Security Council, we need to continue to support the Mechanism in its important work.

We note the Mechanism's current case-load, which reflects the significance of the work that lies ahead — important appeals in the *Karadžić* and *Mladić* cases, the retrial of Stanišić and Simatović, the contempt of court hearing and the review of an appeal sentence in the *Ngirabatware* case. We are pleased to note that the Appeals Chamber delivered its judgement in the case of *Šešelj* in April. The Tribunal had already set out a time frame within which to hear those cases, and it is noteworthy that cases are proceeding at pace, and even ahead of their original schedule, such as the case of *Karadžić*.

We commend the Mechanism's efforts in establishing itself as a lean and efficient tribunal. The

recent Office of Internal Oversight Services (OIOS) report has underlined that point, specifying that the Mechanism has already achieved much of what the Security Council envisaged in resolution 1966 (2010). Its strategic approach to handling cases has undeniably played a crucial role in achieving that goal. The structure of the Mechanism has enabled it to manage its case-load efficiently by employing, in addition to its full-time President, a roster of independent judges who perform judicial functions only when tasked to do so. They can also work remotely, in addition to working at one of the seats of the Mechanism, potentially saving time and resources. It has proved to be a successful way of working. Presidential oversight in ensuring the expeditious nature of trials has resulted in substantially reduced costs for the judicial activities of the Residual Mechanism when compared to those of its predecessors.

Let me turn to the valuable work being carried out by both the Prosecutor and the Registrar.

With regard to the Prosecutor's recent initiatives, we take note of the OIOS comments that the Prosecutor was effective in planning, restructuring and refining his Office's operational methods in response to the need for a lean and cost-effective organization. It is clear that embracing the one-office policy over recent years and redefining his Office's policy on tracking fugitives last year enabled it to be innovative in its operations in the post-ICTY and ICTR periods. Those innovations are to be applauded, but the support of the international community is still needed. We call upon Member States to assist the Prosecutor's Office in fulfilling its mandate.

For example, locating and apprehending fugitives is not a task that lies exclusively with the Prosecutor. We therefore urge States and international organizations to work constructively with the Office to bolster its efforts. Similarly, we call upon relevant States to engage with the Prosecutor in pursuing national prosecutions. The increasing number of requests that the Prosecutor is receiving from national judicial authorities for advice and support is encouraging, and we are pleased that such work will be done consistent with the lean and effective organization mandate. At the same time, it is an indication of the level of work that the Prosecutor will have to undertake over the next few years.

The work of the Registry often goes unnoticed, yet it is important that we note the changes made in the Registry, which have encouraged a unified work culture. Better coordination between the two branches has ensured harmonization of governance frameworks, leading to the sharing of best practices. In the future, we look forward to hearing from the Registry on further progress, including on the new archives repository and the work being done to create a unified information technology system for The Hague and Arusha, ensuring easier public access to information, as well as the steps being taken to increase responsiveness to changes in the Mechanism's workload going forward.

We are pleased that the Mechanism has welcomed the OIOS recommendations and has started work on their implementation. We are confident it will continue to carry out appropriately the Residual functions with which it is tasked, and the United Kingdom remains fully committed to supporting the Mechanism until it completes its mandate.

Mr. Djédjé (Côte d'Ivoire) (*spoke in French*): My delegation extends its warm congratulations to your country, Mr. President, on its assumption of the presidency of the Council for the month of June, and assures you of its full cooperation in fulfilling your mission. We also congratulate Poland, in particular Ambassador Joanna Wronecka, on the outstanding conduct of our work during the month of May.

Côte d'Ivoire welcomes the convening of this debate on the progress of the work of the International Residual Mechanism for Criminal Tribunals, and thanks Judge Theodor Meron and Mr. Serge Brammertz, in their respective capacities as President and Prosecutor of the Mechanism, for their briefings. Our congratulations also go to Ambassador Gustavo Meza-Cuadra on his work as Chairman of the Informal Working Group on International Tribunals.

On 17 May, the Council held an open debate on upholding international law within the context of the maintenance of international peace and security (see S/PV.8262). On that occasion, almost all delegations stressed the need for States to pool their efforts to fight impunity in cases of violations of international law. The letters of the President and the Prosecutor of the Mechanism (see S/2018/347 and S/2018/471) are in line with that perspective.

The Mechanism — a small, temporary entity — has made significant progress in implementing its mandate in recent years. Indeed, the Mechanism has fulfilled its mandate, in accordance with resolution 1966 (2010), by ensuring the necessary continuity of the residual

functions transferred to it by the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, as evidenced by the increasing volume of its judicial activities, enforcement of sentences, the protection of victims and witnesses, and archives management.

My delegation commends the remarkable progress made by the Mechanism, as noted by the Office of Internal Oversight Services (OIOS) in the report it published in March. Those include matching the budget to the size and activities of the Mechanism, as well as staff reductions. We encourage the President and the Prosecutor to pursue their efforts to achieve the objectives set by the United Nations in resolution 1966 (2010). Côte d'Ivoire also reaffirms the importance of the recommendations made by the OIOS in its review of the Mechanism's working methods and welcomes the steps taken to implement them. In that regard, my delegation supports the staff morale survey, the review of the survey results and the development of strategies on managing institutional change.

Despite the progress made, we note that many major challenges remain, including the cooperation of States with the Mechanism and the strengthening of national judicial capacities. With respect to States' cooperation with the Mechanism, my country is of the view that it is key in the search for, arrest and transfer of fugitives and the enforcement of sentences imposed. In that regard, my delegation appreciates the initiatives taken by the States that support the Mechanism by receiving persons who have been convicted, acquitted or have served their sentences when they renounce their return to their countries of origin. We also encourage States to redouble their efforts to apprehend fugitives and make them available to the Mechanism for trial.

With regard to strengthening the judicial capacities of national institutions, it is an important link in the promotion of the principle of complementarity and the assumption of responsibility by national authorities following a conflict. In that connection, my delegation supports activities to bolster national judiciary capacities, enabling State institutions of beneficiary States to take in the experience gained and the best practices with regard to the Mechanism in order to prosecute perpetrators of mass crimes.

We welcome the advanced training provided in February by the Mechanism's Office of the Prosecutor in Dakar on investigation and prosecution for international crimes in Central Africa and West Africa. Thirty prosecutors and investigating judges from Côte d'Ivoire, Guinea, Mali, the Niger, the Central African Republic and Senegal participated in this high-level training. Côte d'Ivoire strongly encourages the Office of the Prosecutor to take all necessary measures to effectively hold the follow-up session in Abidjan.

Despite its supposed residual functions, the Mechanism plays an undeniable role in the respect for international law and the fight against impunity in the regions of ex-Yugoslavia and Rwanda. Perpetrators of mass crimes are still at large. The Mechanism should pursue them, apprehend them and judge them.

In conclusion, Côte d'Ivoire invites the international community and the Council to support the efforts of the Mechanism and to provide it the necessary support and cooperation to enable it to complete its tasks in order to successfully discharge its mandate.

Mrs. Gueguen (France) (*spoke in French*): I thank President Meron and Prosecutor Brammertz for their letters (see S/2018/347 and S/2018/471) and briefings.

Six months after the closure of the International Tribunal for the Former Yugoslavia and more than two years after the closure of the International Criminal Tribunal for Rwanda (ICTR), the International Residual Mechanism for Criminal Tribunals has demonstrated that it is fully independent and capable of effectively implementing the mandate entrusted to it by the Security Council in resolution 1966 (2010).

France welcomes the respect of the timetable for legal proceedings, with its April 2018 decision on the *Šešelj* case and an expected appeal judgement in the Karadžić case in December 2018, well ahead of schedule. France thanks the staff for their work and reaffirms the temporary nature of the mechanism, which must innovate, simplify and adapt its procedures and working methods, giving due consideration to the diversity of legal systems, and complete all the trials in progress within the set time limits.

France also welcomes the transfer to Senegal and Benin of persons convicted by the International Criminal Tribunal for Rwanda to serve their sentences there. We recognize the importance of a commitment by all Member States to assisting the Mechanism in the implementation of its mandate, in particular with regard to the enforcement of sentences. It is a

decisive contribution to the work of justice that we are pursuing, which must be welcomed and encouraged. France also recalls that States are required to cooperate with the Mechanism, in particular in the pursuit and apprehension of the eight fugitives indicted by the ICTR, for which the Mechanism is responsible. Their crimes cannot go unpunished.

During the period under review, the United Nations Office of Internal Oversight Services (OIOS) assessed the working methods of the Mechanism and issued its report on 8 March. In that regard, France welcomes the Mechanism's cooperation and the submission of the progress report (see S/2018/471) on its work, in accordance with presidential statement S/PRST/2018/6, of 19 March.

We call on the Mechanism to implement the recommendations of the Office of Internal Oversight Services in order to continue to meet the austerity and efficiency requirements, as identified by OIOS in its report. In that regard, we welcome the adoption of a code of conduct and a disciplinary mechanism for judges.

Our semi-annual debate is an opportunity to recall the major work of the international community in the service of the fight against impunity and reconciliation, and the responsibility incumbent on the States concerned to ensure that this work is ongoing and on people's minds by continuing their tireless efforts to prosecute the perpetrators of crimes within their jurisdiction. Those are the conditions for genuine national and regional reconciliation.

France welcomes the assistance provided by the Mechanism to national courts responsible for prosecuting the perpetrators of international crimes committed in former Yugoslavia and Rwanda. On the other hand, the feeble cooperation among the Balkan States in the prosecution of middle-level criminals, noted by Prosecutor Brammertz, is worrying. For France and the European Union, cooperation with the Mechanism and regional cooperation remain a priority. I would also like to echo the concern expressed by Prosecutor Brammertz regarding certain persons, convicted by international criminal tribunals, denying their crimes and their responsibility as soon as they are released.

We wish to reaffirm here that judicial decisions on war crimes, genocide crimes and crimes against humanity committed in the former Yugoslavia and Rwanda are based on facts and responsibilities rigorously established through fair trials. Those judicial decisions, like all judicial decisions, as well as the duty to respect victims, are binding on all. We encourage the Mechanism to continue its discussions on the introduction of early release conditions.

In conclusion, I would like to thank the Ambassador of Peru, Chair of the Informal Working Group on International Tribunals, his entire team, the International Residual Mechanism for Criminal Tribunals, the Office of Legal Affairs and the Office of Internal Oversight Services for their efforts to implement resolution 1966 (2010).

The resolution that the Security Council will adopt by the end of this month should allow this work, which is obviously not yet complete, to continue. More than ever, the fight against impunity and for an independent and impartial judiciary must be at the heart of the Council's action, given that justice is a prerequisite for lasting peace and security.

Mr. Li Yongsheng (China) (*spoke in Chinese*): China thanks President Maron and Prosecutor Brammertz for their briefings on the work of the International Residual Mechanism for Criminal Tribunals.

China knows that during the reporting period, the Mechanism continued to make progress in its traditional activities. An appeal judgements has been rendered on the *Šešelj* case. The *Stanišić and Simatović* case, the *Karadžić* case and the *Mladić* case continue to move forward. Eight convicted persons have been transferred to Senegal and Benin to serve their sentences. In that regard, China knows that President Meron is committed to completing the *Karadžić* case by the end of the year.

China welcomes the efforts and progress made by the Office of the Prosecutor in tracking fugitives of the International Criminal Tribunal for Rwanda. China hopes that, in line with the requirement of the Security Council to be small, temporary and efficient, the Mechanism will continue to take measures to efficiently push forward case trials and other work. China commends the Office of Internal Oversight Services for its evaluation report on the working methods of the Mechanism. It is our hope that the Mechanism will implement the recommendations in the report. China consistently supports the international rule of law and the work of the Mechanism.

In conclusion, I would like to take this opportunity to thank Peru in its capacity as Chair of the Informal

Working Group on International Tribunals and the Office of Legal Affairs for their work.

Ms. Schoulgin Nyoni (Sweden): I would like to thank President Theodor Meron and Prosecutor Serge Brammertz for their useful and informative briefings on the work of the International Residual Mechanism for Criminal Tribunals.

As this is the first open meeting on this topic since the closure of the International Tribunal for the Former Yugoslavia (ICTY) at the end of last year, we would also like to once again express our sincere appreciation to the ICTY and its staff for the invaluable contributions to international criminal justice and the development of international law. We also appreciate the efforts made, both by the ICTY and the Mechanism, to ensure a smooth and efficient transition of the functions and services of the Tribunal to the Mechanism.

The Mechanism will continue to fulfil and complete the important work of the International Criminal Tribunals for the Former Yugoslavia and Rwanda. Both Tribunals have played a key role in the fight against impunity for the gravest crimes of concern to the international community, such as genocide, crimes against humanity and war crimes. They were both forerunners of the International Criminal Court, which is the only permanent, treaty-based international court with jurisdiction in the fight against impunity today. In that regard, we repeat the importance of ensuring the universality of the Rome Statute.

In order for the Mechanism to complete its functions and to prevent any delays in the implementation of its mandate, it is essential that the Mechanism has the required resources to deliver on its mandate. It is also imperative that its independence and integrity be upheld. The Mechanism has made important headway since our previous briefing in December 2017 (see S/PV.8120). The continued development of the ongoing cases, including the completion of the case against Vojislav Šešelj, demonstrates the progress of the Mechanism. There has also been significant progress in relation to gender-related matters. We welcome the fact that the Registry is now reviewing how policies on the support and the protection of victims and witnesses can better reflect gender-sensitive and gender-appropriate approaches. We also applaud the achievement by the Mechanism of gender parity at the level of professional staff within the Organization, as well as the appointment of focal points, including for gender issues.

We note with satisfaction that the practice of judges exercising their functions remotely has worked well, having been described as efficient and innovative in the evaluation report (S/2018/206) of the Office of Internal Oversight Services (OIOS). We also welcome the work to revise the Code of Professional Conduct for the Judges of the Tribunal (see S/2016/976, annex, enclosure VII), which is an important element of ensuring judicial accountability. We further note the efforts made towards the transition to a digital archive. The report on the evaluation carried out by the OIOS made a number of important recommendations for the Mechanism going forward. We are pleased to see that the Mechanism has already begun to implement those recommendations.

If the Mechanism is to succeed in delivering on the mandate that we have given it, all Member States must cooperate fully and provide full and unequivocal support for its work. In that regard, Sweden is one of the countries that has received convicted individuals for the enforcement of sentences.

We note the concerns expressed by Rwanda and underscore the importance of continued work to promote communciation and cooperation with the Government of Rwanda. We welcome the Mechanism's work in assisting national jurisdictions that prosecute international crimes committed in the former Yugoslavia and in Rwanda. We call on Member States to assist the Mechanism in the arrest of the eight fugitives indicted by the International Criminal Tribunal for Rwanda who remain at large.

Finally, I want to join other representatives in expressing our appreciation to Peru for its able leadership as Chair of the Informal Working Group on International Tribunals. We look forward to continuing to work closely with the Group going forward.

Mr. Almunayekh (Kuwait) (*spoke in Arabic*): At the outset, I would like to thank Judge Theodor Meron, President of the International Residual Mechanism for Criminal Tribunals, and Prosecutor Serge Brammertz for their informative briefings on the progress made in the work of the International Residual Mechanism for Criminal Tribunals.

By the end of last year, we saw the International Tribunal for the Former Yugoslavia complete its mandate to prosecute those responsible for grave violations of international humanitarian law in that country. We have therefore been able to close the first

two international criminal tribunals for the prosecution of the perpetrators of grave violations of international humanitarian law. That jurisdiction was fully transferred to the International Residual Mechanism for Criminal Tribunals, which is complementing the Security Council approach to establish justice and end impunity in order to achieve international peace and security. Peace means not only putting an end to armed conflicts, but also ensuring justice for victims of war crimes, genocide and ethnic cleansing. This can be done by prosecuting those found responsible for perpetrating such crimes in accordance with the relevant international laws.

We take note of the report of the President of the International Residual Mechanism for Criminal Tribunals on the progress of its work (see S/2018/347). In that regard, I would like to make the following three points.

First, we welcome the efforts of the President and the Prosecutor of the International Residual Mechanism to improve its work by adopting effective working methods that help to facilitate legal research, analysis and the drafting of decisions and judgements issued by the Mechanism, without prejudice to the mandate set out in resolution 1966 (2010) and despite the challenges it is facing. Those challenges include heightened judicial activity, such as requests for the review of judgements rendered, access to confidential information and allegations of contempt of court; no approval by the General Assembly for the Mechanism's proposed budget for the biennium 2018–2019. The Mechanism therefore had to prepare a revised and reduced budget by decreasing the size of its staff, which had a negative impact on the implementation of the Mechanism's mandate, as well as on its staff morale.

Secondly, we commend the prompt proceedings undertaken by judges, prosecutors and the Registrar during the trials before the judges of the Mechanism so as to swiftly issue judgements against the accused, such as the issuance ahead of schedule of final judgements in recent cases.

Thirdly, the Mechanism should take the remarks of Member States on its work into account in order to achieve the desired outcome, in particular in cases of conditional early release.

In conclusion, I would like to thank Peru for its strenuous efforts as Chair of the Informal Working Group on International Tribunals, as well as the Office of Legal Affairs.

Mr. Van Oosterom (Netherlands): I would first like to thank President Meron and Prosecutor Brammertz of the International Residual Mechanism for Criminal Tribunals for their briefings and for their comprehensive report (see S/2018/347). We also wish to thank Ambassador Gustavo Meza-Cuadra, Permanent Representative of Peru, for his leadership of the Security Council Informal Working Group on International Tribunals.

After 24 years of service, the International Tribunal for the Former Yugoslavia (ICTY) completed its mandate and closed its doors last December. The Kingdom of the Netherlands would like to express its sincere gratitude to all those who worked for and with the ICTY. In many aspects, the court was unique and groundbreaking — unique in its contribution to international criminal justice case law, in its prosecution of sexual violence as a war crime and in convicting so many people accused of atrocity crimes.

The closure of the International Criminal Tribunal for Rwanda (ICTR) in 2015 and of the ICTY in 2017 mark the end of an era. We are now moving from the early stages of justice in Rwanda and in the Balkans to a more mature stage. However, much work remains to be done. In that respect, we are grateful that the Mechanism has now assumed the responsibilities and all remaining functions from both the ICTY and the ICTR.

Today, I will focus on three issues: first, the judicial workload of the Mechanism; secondly, capacity-building; and thirdly, the early release policy.

My first point is on the judicial workload of the Mechanism, which is higher than anticipated. We note with satisfaction that the three cases on the docket of the Mechanism are nonetheless all ahead of schedule. The working methods implemented by the Mechanism have enabled the judges to expeditiously render judgments in the shorter legal proceedings. We fully support those efficient working methods and encourage the Mechanism to continue along that path.

Turning to my second point, the capacity-building and outreach activities of the Prosecutor, we fully support the three priorities of the Prosecutor to, complete all trials and appeals expeditiously, locate and arrest the eight remaining fugitives and assist national

jurisdictions in prosecuting international crimes. We would like to underscore the importance of the last priority in particular.

With the closure of both Tribunals, for the former Yugoslavia and for Rwanda, ensuring accountability for war crimes in the countries involved now entirely depends on national judicial authorities. It is of the utmost importance that national judicial authorities be assisted, supported and advised in prosecuting war crimes. We encourage the Prosecutor to continue those very important activities.

Turning to my third point, the early release policy, we take note of the current discussion. In that regard, we acknowledge and underscore the authority given to the Mechanism's President by its statute in that regard. The international legal order and the rule of law require the international community to respect and implement judicial decisions taken by the Mechanism in accordance with the statute.

In conclusion, the Netherlands proudly hosted the ICTY in The Hague and is proud to host the Mechanism there as well, together with many other international legal institutions. The quality of those international legal institutions is determined by the quality of the staff members and the quality of their leadership. In our view, therefore, the prudent and careful following of relevant decision-making procedures is crucial when appointing those leading the institutions. That also applies to the role of the Security Council in this regard.

Our Constitution obliges our Government to promote and protect the international legal order, and international criminal justice is a key element of that endeavour. Let me once again commend Prosecutor Brammertz and his team for all their hard work. To President Meron, I should like to express my thanks for his statement of two weeks ago before the Security Council (see S/PV.8262); in particular, his personal note moved my delegation and was quite compelling. We share his concerns that international criminal justice is still very much in its early stages, and therefore at a highly vulnerable stage of development. The Kingdom of the Netherlands remains determined to fight impunity and to ensure that justice is done by victims of international crimes worldwide. We will continue to protect and promote the international legal order and to do our utmost for international criminal justice.

Mrs. Mele Colifa (Equatorial Guinea) (*spoke in Spanish*): At the outset, I should like to thank you, Sir, for having organized today's meeting, and to welcome Judge Theodor Meron and the Prosecutor of the International Residual Mechanism of Criminal Courts, Mr. Serge Brammertz, and thank them for their valuable, informative and enlightening briefings. We also want to thank the Chair of the Informal Working Group and his entire team for the outstanding work they are carrying out.

In general terms, the Government of the Republic of Equatorial Guinea welcomes the significant progress in the execution of the mandate of the International Residual Mechanism for Criminal Tribunals, as recognized in the March 2018 evaluation report (S/2018/206) of the Office of Internal Oversight Services (OIOS).

However, we must note that we have observed a lack of uniformity in the application of rule 151 of the Rules of Procedure and Evidence, referring to the General Rules for the Granting of Pardon, Commutation of Sentence and Early Release. Specifically, we refer to the latest persons convicted by the International Criminal Tribunal for Rwanda to have been released before having served out their full sentences.

While those rulings were issued following the consideration of circumstances held to justify a reduction in sentence or a pardon, it is also true that the gravity of the crimes committed and the irreparable damage caused are not open to discussion. We therefore urge the Mechanism to cooperate with victims and take into account their opinions, especially in cases of pardon or early release of persons duly convicted of war crimes, genocide or crimes against humanity, always in accordance with due process. There is no peace without justice, and it is important that victims feel that justice has been done, since decision may foment attitudes of revenge and hatred.

We underscore the need for the Security Council to show unity in upholding the rule of law, ensuring accountability and preventing impunity, in particular for those responsible for genocide, crimes against humanity and war crimes, as well as other serious violations of international humanitarian law and international human rights law, in order to ensure they are not repeated.

In establishing the Mechanism, to cite but one example, the Security Council once again demonstrated its commitment to peace and to upholding international law and international humanitarian law by supporting

the peaceful settlement of disputes, ensuring accountability and promoting the fight against a pervasive culture of impunity. However, to echo what Judge Meron said a few weeks ago in this very Chamber (see S/PV.8262), demanding accountability for international crimes entails doing much more than simply cooperating with international tribunals and specialized entities. We agree with his observation that, for accountability and an international order based on the rule of law to truly take hold, officials of national jurisdictions will have to shoulder the lion's share of this work, since it is only through broad-based national participation and by using all the tools at our disposal, including universal jurisdiction, that we may hope to address the shortcomings in accountability. Any training policy for national legal institutions in that regard will therefore enjoy the strong support of the Republic of Equatorial Guinea.

We also support the recommendations of OIOS and call on States to redouble their efforts to collaborate with the Mechanism.

I would like to underscore that all of my remarks should in no way detract from the excellent and arduous work being carried out by the Mechanism. We simply wish to point out that, in keeping with the foreign policy of our Government, we always advocate dialogue, close cooperation and cooperation.

Lastly, the Republic of Equatorial Guinea is firmly committed to an international order based on the rule of law with the United Nations at its core, whereby the Security Council must continue promoting mechanisms such as the establishment of tribunals to combat the culture of impunity in post-conflict situations.

Mr. Radomski (Poland): I would like to thank President Theodor Meron and Prosecutor Serge Brammertz for their informative reports (see S/2018/347 and S/2018/471) and briefings, and to pay tribute to their commitment to fighting impunity and ensuring accountability by way of the high quality work of the International Residual Mechanism for Criminal Tribunals (IRMCT). Let me also join other members of the Security Council in expressing our thanks to Peru for very ably and effectively chairing the Informal Working Group on International Tribunals.

Poland notes with satisfaction the significant progress made in the work of the Mechanism and looks forward to its further achievements. Recognition is due to the efforts of the President, the Prosecutor and the staff in carrying out their tasks effectively and with a sense of commitment while facing a considerable workload, including increased judicial activity and a large number of challenges.

We appreciate in particular the focus on the expeditious completion of trials and appeals, and we welcome the numerous innovative, flexible and cost-effective practices and arrangements adopted to that end. Instances of proceedings held ahead of previous projected schedules are encouraging. Also positive is the commencement of the implementation by the Mechanism of the recommendations made by the Office of Internal Oversight Services in March 2018. Moreover, the efforts undertaken by the Mechanism to protect and assist the victims and witnesses of atrocities are especially commendable.

We take note of the challenges that the Mechanism faces, including in relation to its budgetary situation. Also in this respect, the crucial importance of sustained cooperation and support from States Members of the United Nations must be acknowledged, as we have a major influence on the timely and efficient fulfilment of the mandate of the International Residual Mechanism for Criminal Tribunals. In this context, we call on all States to fully cooperate with the Mechanism, in accordance with the relevant Security Council resolutions, and to render the necessary assistance to it, especially with regard to the location and arrest of the remaining fugitives indicted by the International Criminal Tribunal for Rwanda.

Finally, let me underline that international criminal justice institutions, including the Mechanism, play a crucial role in upholding accountability and fighting impunity, which are key to effective conflict prevention. Allow me to reassure the Council of Poland's continued and unwavering support for the Mechanism.

Mr. Inchauste Jordán (Plurinational State of Bolivia) (*spoke in Spanish*): We are very grateful for the briefings by the President of the International Residual Mechanism for Criminal Tribunals, Judge Theodor Meron, and the Prosecutor, Mr. Serge Brammertz. We take this opportunity to reiterate to them our strong support in the discharge of the duties that have been entrusted to them. We should like also to thank and congratulate Peru for its work at the head of the Informal Working Group on International Tribunals.

There is no doubt that the work carried out by the International Tribunal for the Former Yugoslavia

(ICTY) and the International Criminal Tribunal for Rwanda (ICTR) has made a landmark contribution over the past 24 years to the fight against impunity. Both bodies have played a major role in the quest for justice and the restoration of the rule of law. On this understanding, and following the closure of the ICTY last December, the International Residual Mechanism for Criminal Tribunals has taken on the primary responsibility for concluding, in a timely and effective way, the remaining trials transferred to its purview.

The Mechanism must implement, with the highest degree of rigour, the mandate conferred on it in resolution 1966 (2010), of 22 December 2010, not just continuing with the case law, rights and obligations of both tribunals, but also taking on the vital role of strengthening and supporting the work of national jurisdictions. In all this it must abide by its original design concept, meaning that it must be a small, temporary and efficient structure whose functions and size will decrease over time.

We have taken due note of the progress made in the jurisdictional activities carried out during the reporting period, including a new, unanticipated trial in the *Stanišić and Simatović* case, as well as in appeals hearings and review procedures. We would also highlight the assistance and cooperation provided by the Office of the Prosecutor to national jurisdictions so as to help them with the strengthening and development of their domestic capacities.

Moreover, we believe that the holding of remote hearings is an innovative initiative that is efficient in terms of both time savings and budgetary savings. Nonetheless, this initiative needs to be improved and further developed in order to guarantee better levels of interaction between the judges. It is also key to address the possible risks that it might present in terms of the security of data and of confidential information.

We would highlight the Mechanism's capacity to discharge multiple functions simultaneously in the cases handed over to it by the ICTR and the ICTY. We urge the Mechanism to strengthen its harmonization and integration efforts, taking steps to prevent the differences in work culture between the Offices in Arusha and The Hague from affecting the work of the Mechanism.

Despite the progress reported, we wish to express our alarm at the number of fugitives who have not yet been apprehended and brought before the Mechanism for trial, despite the unceasing coordination activities carried out by the Office of the Prosecutor alongside States, regional and international organizations such as INTERPOL. It is important in that context to recall that criminal responsibility is individual and that no community or nation is responsible for the acts committed by individuals. That understanding should encourage States to cooperate with investigations in order to avoid impunity and guarantee reparations for harm caused, which is a vital prerequisite for reconciliation.

Moreover, instances of early release and related problems are an issue that give us cause for great concern, given that there appear to be gaps in terms of the criteria for their implementation. In that respect, we call on the Mechanism, through its various bodies, to take the measures necessary to resolve the situation and to prevent the legacy and the work of the ICTY and the ICTR from being tarnished or diminished by the release of individuals who then proceed to deny their crimes or attempt to justify their crimes against humanity.

We have taken note of the difficulties encountered during the reporting period on the relocation of 11 individuals who had served their sentences fully or who had been acquitted of all charges. There may be a possible humanitarian situation in this respect that needs to be resolved and addressed quickly by the Mechanism. For this reason, the support and assistance of the international community is particularly important.

We have taken note of the assessment carried out by the Office of Internal Oversight Services on the functions of and the work carried out by the Mechanism for the period 2016-2017. We note the generally positive assessment and have also taken note of the six recommendations contained therein and call on the various bodies of the Mechanism to implement same as soon as possible.

Finally, we urge the Mechanism to continue to develop its jurisdictional activities in a determined manner, making effective and efficient use of the resources allocated to it, abiding by its temporary nature and taking the precautions necessary to implement its actions over the short and medium term.

Ms. Guadey (Ethiopia): I would like to start by thanking the President of the International Residual Mechanism for Criminal Tribunals, Judge Meron, and its Prosecutor, Serge Brammertz, for their

comprehensive progress report and briefing on the work of the Mechanism.

We welcome the measures taken by the Mechanism, including the Office of the Prosecutor, to further enhance its efficiency as well as to streamline its internal working methods and processes within the chambers, despite its small staff and tight resources. We note with appreciation the work done by the Mechanism in assuming the responsibility for all functions remaining from both the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia after their closure, particularly their residual judicial mandates. The measures taken by the Office of the Prosecutor to assist and build capacity in national criminal justice sectors with a view to supporting the prosecution of war crimes cases arising out of the conflicts in Rwanda and the former Yugoslavia are also commendable.

We have noted some of the challenges raised in the report (see S/2018/471), in particular in relation to the decision of the General Assembly not to approve the Mechanism's budget for 2018-2019 and its implications for the long-term planning and operations of the Mechanism. While welcoming the measures taken by the Mechanism to reduce the impact of the decision, the concerns raised in relation to its implications for the completion of the functions of the Mechanism in a timely and effective manner require further consideration.

We continue to note with concern that eight fugitives indicted by the ICTR and five fugitives who are currently expected to be brought to trial in Rwanda remain at large. In that regard, we appreciate the measures taken by the Office of the Prosecutor to track and arrest remaining fugitives. It is important that States continue to provide the necessary assistance to the Office of the Prosecutor of the Mechanism, including in the tracking of those fugitives.

We have also noted in the report the humanitarian challenges faced by the Mechanism with regard to the relocation of acquitted and released persons. In our view, such issues require proper consideration in the upcoming review of the Mechanism for International Criminal Tribunals.

Some of the issues that continue to be raised by Rwanda in relation to the early release of persons convicted by the ICTR or the Residual Mechanism cannot be overlooked. We have noted the briefing note on the practice of the Residual Mechanism with regard to the early release of persons convicted by the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism itself.

In the process leading towards the early release of a person convicted by the ICTR, in accordance with rule 150 of the Amended Rules of Procedure and Evidence of the Mechanism, consultation with any judges of the sentencing Chamber who are judges of the Mechanism or at least two other judges, where none of the judges who imposed the sentence are judges of the Mechanism, is of the utmost importance. In addition, consultation between the President of the Mechanism and the country concerned, Rwanda, on early release, in particular on the implication of such early release for the victims and the community at large, is vital. In that regard, lessons could be drawn from the Residual Special Court for Sierra Leone.

I would like to conclude by reiterating the need for continued support from the Council to the Mechanism in the fulfilment of its mandated residual functions. The support of Member States to the Residual Mechanism also remains critical, including in relation to the tracking of fugitives and the relocation of acquitted or released persons, as well as in addressing budget-related issues.

Mr. Simonoff (United States of America): I would like to thank President Meron and Prosecutor Brammertz for their informative briefings.

The United States would like to begin by recognizing President Meron. He has led the International Residual Mechanism for Criminal Tribunals since 2012, overseeing the assumption of responsibilities from the International Criminal Tribunal for Rwanda (ICTR) and the International Tribunal for the Former Yugoslavia (ICTY). President Meron's efforts, through his leadership of the Mechanism have helped ensure that victims of horrific atrocities addressed by the ICTR and ICTY receive meaningful measures of justice. He has done so while running a lean, efficient operation.

The volume of work that the Mechanism conducts is impressive given its lean operations — 253 judicial decisions and orders issued during the past reporting period alone, in addition to an ongoing trial in the case *Prosecutor v. Jovica Stanišić and Franko Simatović*, ongoing appeal proceedings in the cases *Prosecutor v. Radovan Karadžić* and *Prosecutor v. Ratko Mladić*

and preparations for appeals in the case *Prosecutor v. Augustin Ngirabatware*.

We would also like to recognize the work of Prosecutor Brammertz. In particular we commend his Office's continued efforts in managing trials and appeals cases, as well as the renewed focus on the Tracking Unit activities to locate and apprehend remaining fugitives. We also appreciate the ongoing efforts to provide assistance to national war crimes prosecutions, encourage regional judicial cooperation and support reconciliation, all of which build on the legacy of accountability established by the Tribunals.

With regard to the future, we urge the Mechanism to continue to implement the recommendations of the Office of Internal Oversight Services (OIOS), as described in its report (S/2018/206) issued in March. It is important to note that the OIOS concluded that the Mechanism had "achieved much of what the Security Council envisaged in resolution 1966 (2010)" (*S/2018/206, p. 1*). The Mechanism took advantage of operational innovations to streamline its work further. The implementation of OIOS recommendations will help the Mechanism become even more efficient and effective at continuing to achieve its mandate. We also welcome the revision of the Code of Professional Conduct for the Judges of the Mechanism to include a disciplinary mechanism.

We encourage the Mechanism to consider proposals to respond to concerns raised by some States about the early-release regime. We note that some individuals who were released early have subsequently denied responsibility for their crimes. We share the concern that denial undermines the fight against impunity. We recognize and encourage the practice of consulting with the States concerned about the early-release regime.

In the former Yugoslavia, we welcome the Prosecutor's report of productive cooperation between Bosnia and Herzegovina and Serbia on transferred cases. At the same time, we are concerned about his report that Croatian authorities are not engaging in a similar way, as well as a report of a breakdown in cooperation between Kosovo and Serbia with regard to war crimes prosecutions. We again highlight that, although the ICTY may have closed last December, the pursuit of justice for atrocities related to the conflicts in the former Yugoslavia is not over. There are many hundreds of cases currently in the hands of national authorities in the region. We call on all of the Governments concerned to credibly investigate and prosecute or otherwise resolve those cases, while cooperating with one another and the Mechanism to that end.

The United States also remains concerned about the failure of the Government of Serbia to execute three arrest warrants for individuals charged with contempt of court in relation to witness intimidation in the case *Prosecutor v. Vojislav Šešelj*. We continue to encourage Serbia to fulfil its obligations, including with respect to cooperation with the Mechanism. The United States urges all States to undertake efforts to arrest and surrender the eight remaining fugitives indicted by the ICTR as soon as possible. The United States continues to offer up to $5 million for information leading to their arrest. The work of the Mechanism, like that of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia previously, reminds us that in the face of terrible atrocities, we can work together to hold perpetrators accountable and to achieve a measure of justice for victims. We look forward to continuing to support the Mechanism in the fight against impunity.

Mr. Temenov (Kazakhstan): I would like to thank the President of the International Residual Mechanism for Criminal Tribunals, Judge Theodor Meron, and the Prosecutor of the International Residual Mechanism for Criminal Tribunals, Mr. Serge Brammertz, for their reports (see S/2018/347 and S/2018/471) and for their informative and comprehensive briefings.

We would also like to warmly welcome Her Excellency Ms. Nela Kuburović, Minister of Justice of Serbia, as well as the representatives of Bosnia and Herzegovina, Croatia and Rwanda.

Kazakhstan is committed to combating impunity and supporting international criminal tribunals. My delegation notes with satisfaction the successful continuation of the Mechanism's work related to the fulfilment of a number of functions of international criminal tribunals, such as enforcing sentences, protecting victims and witnesses, managing archives and smoothly and effectively transitioning to the Mechanism the remaining functions of the International Tribunal for the Former Yugoslavia. We greatly appreciate the leadership of President Theodor Meron in successfully accomplishing that task.

Kazakhstan welcomes the fact that despite the difficulties the Mechanism has faced owing to the

reduction in its budget for the current biennium, it has made significant progress in establishing itself as a small, temporary and effective structure. We are pleased with the expenditure reduction plan that it has developed and implemented.

We welcome the Mechanism's development of rules, procedures, and policies that are harmonized and based on the best practices of both Tribunals, as well as its own practice. This will ensure that it can fulfil its mandate effectively and as well as possible. We consider the code of professional conduct that has been formulated for the Mechanism's judges as a progressive step towards strengthening the principles of accountability and transparency in its functions. However, we believe there is always room for improvement and urge the Mechanism to take all necessary measures to build transparent and accountable partnerships with all the stakeholders involved. Given the paramount importance of ensuring that Member States work with the Mechanism in order to see international justice done, we call on all States to cooperate fully with it. In the context of the Mechanism's priority task of seeking the arrest of eight fugitives, we are pleased to note the Prosecutor's efforts in that regard and hope that they will be arrested and brought to trial as soon as possible.

I would like to mention the work that the Mechanism is doing with regard to the archives of both Tribunals, which are truly priceless for both practical and research purposes. We welcome and appreciate the Mechanism's development and implementation of an integrated system for managing archives and records. Considering that, we hope that the Mechanism's reduced budget will not affect the preservation of that heritage in any way. Kazakhstan greatly appreciates the Mechanism's role and place in the administrative system of international justice and in helping to preserve our faith in international law and ensure that those guilty of committing grave crimes will not go unpunished. Lastly, we affirm our firm commitment to strengthening the rule of law and promoting justice in the world by supporting the Mechanism in every aspect of its work.

The President (*spoke in Russian*): I will now make a statement in my capacity as the representative of the Russian Federation.

Our delegation closely monitors the work of the International Residual Mechanism for Criminal Tribunals, particularly the judicial proceedings conducted within its framework, and we are grateful to the Mechanism's leaders for their detailed information and reports on that. We pay close attention to the extent to which it has been able to learn from the activities of the International Criminal Tribunals established by the Security Council. As we know, the history of one of them, the International Tribunal for the Former Yugoslavia (ICTY), was marred by a selective approach to justice, numerous delays in its criminal proceedings and violations of the rights of the accused to a fair trial.

The Mechanism's current two-year mandate ends on 30 June, as we are all aware. This month the Security Council has to finish reviewing the Mechanism's activities to date and reflect the results in an appropriate resolution, whose adoption is an essential condition for extending the work of the Mechanism for another two years. By the end of June, the terms of office of the members of the Register of Judges, the President and the Prosecutor of the Mechanism will expire.

Unfortunately, our analysis of the Mechanism's practice in specific cases confirms that it has inherited the ICTY's flawed working methods. The verdict in the case of Vojislav Šešelj is another confirmation of that. Rewriting an acquittal as a guilty verdict with a sentence to time served only underlines the shortcomings of the justice model in the ICTY and Residual Mechanism's format.

Similarly, very typical conclusions about what is going on with the Mechanism can be drawn from the report (S/2018/206) of the Office of Internal Oversight Services (OIOS) prepared for the Security Council's review. Judging by the OIOS report, the Mechanism seems to be taking the same line as the ICTY with regard to to both internal administration and personnel policy issues. As a result, the Office indicates that there has been friction between management and workers and a deteriorating atmosphere and low morale among the staff, and Council members have discussed that this morning. We warned of the danger of this as long as two years ago when a proposal was made to automatically reassign the ICTY leadership to the corresponding posts in the Mechanism. Incidentally, for some reason the extent of the judicial workload came as a surprise to the Mechanism.

We are concerned about the OIOS report's assertions that the Mechanism's Arusha branch is perceived by some of the staff in The Hague as a field office. We believe that the Prosecutor and Secretary's move to

Arusha, announced in the report of the President of the Mechanism, will improve administrative harmonization and unity in both branches of the Mechanism as one entity. We also hope that the move will enable the Mechanism's leadership to concentrate on its mandated activities. Up to now the Prosecutor's report is still making too much of the issue of combating impunity in the countries of the former Yugoslavia. It again includes irrelevant evaluations of the prospects for European integration with respect to those countries, including in the context of the related strategy of the European Union.

We would like to remind the Council that the Mechanism should not overstep the limits of its mandate and functions. As we have frequently noted, the Residual Mechanism was established in accordance with Security Council resolution 1966 (2010) as a temporary body, with strictly limited powers for completing processes that the ICTY and the International Criminal Tribunal for Rwanda were unable to finish. That is why its official title includes the word "residual". The temporary nature of the Mechanism's mandate requires that its residual functions — including legal proceedings, whose delay on the pretext of reduced funding is unacceptable — be completed as quickly as possible.

We would also like to point out that the Mechanism, according to its Statute, does not have the authority to analyse the quality of national judicial systems. The staff of the Mechanism should not be distracted by any kinds of educational activities or events such as seminars and training sessions, particularly for third countries that are not part of the relevant region.

We would especially like to emphasize the importance of protecting the right of the accused to timely, appropriate and high-quality medical care. Among other things, that right requires using reliable, unembellished information about defendants' health. The ICTY's mistakes in that regard must not be repeated in any circumstances. Its legacy is marred by the negligence that led to an entire roster of people dying in custody. In general, we believe that at this stage, when we have guiding estimates of how long it will take to complete the proceedings in the cases of Ratko Mladić, Jovica Stanišić and Franco Simatović, it is time for the Council to think objectively about winding up the Mechanism's activities in the foreseeable future.

In conclusion, I want to say that we hope that the Mechanism's leadership will produce a well-thought-out plan for the course of its legal proceedings and other statutory activities. We expect reliable projections, maximum efficiency and transparency, as well as strict adherence to judicial standards, including trial timelines. In our view, the Security Council has already provided all procedural and other opportunities for that to the Mechanism.

I now resume my functions as President of the Council.

I give the floor to the Minister of Justice of Serbia.

Ms. Kuburović (Serbia): I thank the Security Council for this opportunity to address it today on behalf of the Republic of Serbia.

Serbia fulfils all its obligations regarding cooperation with the International Residual Mechanism for Criminal Tribunals. After the closing of the International Criminal Tribunal for the Former Yugoslavia (ICTY), only one first-instance case and two appeal cases remain before the Mechanism.

My country has harmonized its legislation with the relevant standards and facilitated cooperation with the Mechanism with regard to all acts recognized by the Security Council in the ICTY statute as serious international crimes. By doing so Serbia has proved that it is committed to fighting impunity. That commitment is also reflected also in the number and rank of accused persons processed by the Tribunal.

Serbia continues to facilitate the Mechanism's Office of the Prosecutor's free access to all evidence, documents, archives and witnesses; evidently, the completion of the work of the Tribunal has had no impact on cooperation with the Mechanism. The cooperation takes place unencumbered. All requests have been addressed, including those of the Office of the Prosecutor, the Chambers and the Registry. And the documents from the archives of State organs are forwarded expeditiously.

The ongoing cooperation is centred on the case *Prosecutor v. Petar Jojić and Vjerica Radeta*. On two occasions, the Office of the Prosecutor requested 1,677 documents comprising several thousand pages. In responding to the requests and proceeding from the recommendations of the competent institutions, Serbia asked for the application of Trial Chamber protective measures. Requests to testify by two persons, who are members of Serbia's security services, have also been made and approval has been granted. They, too,

have been relieved of their obligations with respect to State, military and/or official secrets. Trial Chamber protective measures have been requested in that case as well.

Over more than 20 years, Serbia has handed over to the Tribunal's Office of the Prosecutor, its Chambers and defence teams hundreds of thousands of documents, many of which, however, have not been used in the proceedings. Notwithstanding the promise that the unused documents that do not belong to the court records will be returned to Serbia, that has not happened yet. In that context, let me point out that the general question of the Tribunal's archives has not been resolved; its fate and use are related to the establishment of information centres in the States that emerged from the former Yugoslavia. During the latest visit of the Tribunal's President Agius to Belgrade, Serbia indicated its readiness to establish such a centre in Belgrade and designated a representative to a joint working group that would also include representatives of the Tribunal. Yet, despite two overtures, no response has been received in that regard to date.

In its continuous efforts to improve its judicial system, Serbia has followed the guidelines defined, among others, by its national strategy for the prosecution of war crimes. The strategy was adopted by the Government of the Republic of Serbia on 20 February 2016 in full support of all judicial and executive bodies included in investigations, as well as the organizations monitoring and reporting on those proceedings as independent observers.

On 26 August 2017, the Government established a body to monitor the implementation of the strategy. It consists of representatives from all the relevant institutions, including the War Crimes Prosecutor, and is chaired by the Minister of Justice. Two reports had been adopted by 31 March, while a third is being prepared for adoption in July. The reports are published in both Serbian and English on the website of the Ministry of Justice.

The Mechanism's Office of the Prosecutor has extended full support to Serbia's draft prosecutorial strategy for the investigation and prosecution of war crimes for the period 2018-2023. In supporting the draft strategy, the Prosecutor stated that the Office reiterates its full commitment to supporting Serbia's Prosecutor's Office in carrying out its important mandate to fight impunity for war crimes in Serbia. Serbia's Prosecutor's Office for War Crimes adopted the strategy on 4 April.

In the context of the implementation of the national and prosecution strategies, as well as of the capacity of the Prosecutor's Office for War Crimes of Serbia, it is important to point out that a Deputy Prosecutor was appointed recently and that the election of two other deputies is expected to take place within a month. In addition, the Government allocated funds to capacity improvements last May, while the Ministry of Justice increased the number of Prosecutor's assistants by four and approved the appointment of three more deputies.

In addition, the Judicial Academy is preparing a curriculum to train prosecutors and judges to update their knowledge of techniques for investigating and trying war crimes and for protecting victims and witnesses. The training will take place in cooperation with the Mechanism's Office of the Prosecutor.

In his report (S/2018/347, annex), the Mechanism's Prosecutor welcomes the number of cases processed in Croatia, the majority of which were tried in absentia. Let me recall that Serbia's Office of the Prosecutor for War Crimes has suspended 30 cases, involving more than 70 indicted persons, because their whereabouts were unknown. Are we to understand that Serbia should have recourse to instituting trials in absentia in order to make the number of cases tried and resolved satisfactory?

The Prosecutor goes on to say in his report that Serbia has not yet taken meaningful steps against high-level suspects.In that regard, it should be borne in mind that many of them were sentenced before the Tribunal and that its practice related to the acquittal of the indictees impacts the prosecution criteria and standards of the Serbian side. Furthermore, Serbia cannot process the war crimes committed against the Serbs in Kosovo and Metohija because of Pristina's continued refusal to cooperate with Belgrade and respond to the requests of the Office of the Prosecutor for War Crimes, as also reflected in the report.

After the Mechanism took over from the Tribunal the case *Prosecutor v. Petar Jojić and Vjerica Radeta*, Single Judge Aydin Sefa Akay requested Serbia to confirm that it could process that case. Proceeding from the opinion of the competent court and the Office of the Prosecutor, and with a commitment to providing all procedural guarantees for a fair trial, Serbia in fact confirmed its ability and readiness to take over the case.

The Amicus Curiae Prosecutor requested to be actively included in the proceeding and the Single Judge approved her request; she submitted her protestations to the Single Judge of the take over of the case by Serbia. The Judge forwarded the submissions in the form of a court order to Serbia requesting it to state its position thereon within a certain period. The Ministry of Justice replied to the Judge on three occasions, in April and May.

The purpose of including the Amicus Curiae Prosecutor in that case is not clear, unless it is intended to delay the proceedings. We are concerned about the Amicus Curiae Prosecutor's comments in that regard. She questions the competence of Serbian judicial institutions and the parliamentary immunity of Jojić and Radeta and analyses public opinion in Serbia. That exercise is irrelevant to the conduct of judicial proceedings before independent courts.

It is in Serbia's interests to process that case. I confirm once again Serbia's readiness to take it over.

We expect the Mechanism to avoid the practice of the Tribunal of procrastinating on some cases, and to complete the remaining cases within a reasonable time.

Serbia continues to be committed to processing war crimes irrespective of the nationality of the perpetrators of grievous crimes against humanity.

Successful proceedings also depend upon regional cooperation, most evident at the moment with Bosnia and Herzegovina. Serbia's judicial institutions have recognized judgements handed down in Bosnia and Herzegovina, and have taken over the prosecution of certain cases in which all process requirements had been complied with. In 2017 and 2018, judgements of Bosnia and Herzegovina courts were recognized in seven cases, with Serbian courts sentencing the defendants to 104 years in prison on the basis of those judgements. All those convicted are Serbs. However, one case, which is still pending, should not be used to dispute the cooperation with Bosnia and Herzegovina, as is done in the report.

In the context of cooperation with Croatia, a meeting of the Ministers of Justice in Belgrade last March resulted in the establishment of two commissions charged, respectively, with the task of exchanging lists of persons accused or sentenced for war crimes and with preparing a bilateral treaty to address war crimes processing. The first commission convened on 26 April to exchange lists and agree on the modalities for future cooperation. It is expected that the other commission will commence it swork next month, which is of paramount importance for the two countries to address outstanding bilateral issues. Serbia will do its utmost to achieve visible progress in resolving the issue of missing persons in Croatia, Bosnia and Herzegovina, and Kosovo and Metohija, and bring closure to their families. The joint commissions of Serbia, Croatia and Bosnia and Herzegovina are charged with that task.

As I said in my previous statement to the Security Council (see S/PV.8120), my country's initiative related to the enforcement of sentences in persons' countries of origin will help to achieve the purpose of punishment and resocialization, which the enforcement of the sentences in faraway countries fails to do. Convicted persons do not understand the language of distant countries and cannot meet their families and other relatives. More often than not, they are kept in inadequate conditions and receive substandard health care, which was brought out in the letters of Judge Meron, the Mechanism's President, to Estonian authorities, the most recent of which was sent at the beginning of May. Serbia is ready to provide guarantees that all security measures will be taken in the event that sentences are served in the country of origin. It also accepts international monitoring.

We are concerned about the health of some accused and convicted persons. Despite Serbia's guarantees, the Mechanism rejected some requests to temporarily release certain persons for treatment. After months of delay, prison doctors eventually prescribed therapy to a convicted person identical to that proposed by Serbian doctors long before. I wish to draw the attention of the Council to inadequate medical care in certain cases. I am doing so on this occasion since I believe that the provision of adequate health care must not be contingent on goodwill or subject to manipulation; it is, in short, a basic human right.

In conclusion, I would like to point out that Serbia has no outstanding issues with the Mechanism and that its cooperation with it will continue to take place unhindered. We expect this fact to be reflected in future reports.

The President (*spoke in Russian*): I now give the floor to the representative of Bosnia and Herzegovina.

Mr. Vukašinović (Bosnia and Herzegovina): At the outset, I would like to congratulate you, Mr. President,

on assuming the presidency of the Security Council for this month. I would also like to thank the leaders of the International Residual Mechanism for Criminal Tribunals for their respective reports (see S/2018/347 and S/2018/471) and for today's detailed briefings on the progress in the Mechanism's work.

We note the continued progress by the Mechanism in implementing residual activities of the now-closed International Tribunal for the Former Yugoslavia (ICTY). The successful conclusion of the Mechanism's mandate in an efficient manner and within a reasonable time frame is of crucial importance for justice and reconciliation in Bosnia and Herzegovina and the region. Throughout the years, the cooperation of Bosnia and Herzegovina with the ICTY has been steadfast and full, as evidenced by the Tribunal's reports. In the same vein, we remain committed to contributing actively to the Mechanism's efforts to accomplish its mission.

In addition to its cooperation with the ICTY, Bosnia and Herzegovina remains committed to improving the efficiency of domestic war-crimes institutions. Accountable and independent judicial institutions that enjoy public trust throughout the entire country is a precondition not only for prosecuting and punishing individual perpetrators of war crimes, but also for achieving reconciliation among Bosniaks, Croats and Serbs, who are the constituent peoples of Bosnia and Herzegovina.

Bosnia and Herzegovina's national war crimes strategy plays a crucial role in making progress on reconciliation. The implementation of the strategy is a complex process in which many institutions at all levels of authority in Bosnia and Herzegovina participate. In that regard, we continue to make efforts to strengthen the national justice system at all levels. We are currently in the process of identifying and further defining activities for promoting the implementation of the national war crimes strategy with a view to bringing to justice persons responsible for war crimes.

The Prosecutor's Office of Bosnia and Herzegovina filed 29 new indictments during the reporting period, having shifted its activities over the past two years from processing category 2 cases to addressing a large number of important indictments in complex cases involving senior- and mid-level suspects. We welcome the support of the European Union, the Organization for Security and Cooperation in Europe and the United Nations Development Programme, in terms of strengthening the human and material resources of judicial institutions that are processing war crimes cases in the country and in terms of general capacity-building important for the full achievement of the benchmarks and goals set out in the national war crimes strategy.

Consistent cooperation among the Prosecutors' Offices and the relevant authorities of Bosnia and Herzegovina, Serbia and Croatia, in accordance with the principles of international justice and the rule of law, is crucial to investigating and prosecuting war crimes. We are pleased that Prosecutor Brammertz has recognized that the productive cooperation between the Prosecutor's Office of Bosnia and Herzegovina and the Prosecutor's Office for War Crimes of Serbia continues to develop and grow stronger and that, as such, sets a positive example for the region. Bosnia and Herzegovina remains committed to the promotion of stronger and more coordinated regional cooperation.

The fight against impunity in a complex, multinational State such as Bosnia and Herzegovina is a crucial precondition for achieving reconciliation and sustaining peace. In that regard, prosecuting war crimes, regardless of the national or religious origin of the perpetrators or victims, is of crucial importance for long-term stability in the country and the region.

The President (*spoke in Russian*): I now give the floor to the representative of Croatia.

Mr. Drobnjak (Croatia): I welcome the President of the International Residual Mechanism for Criminal Tribunals, Judge Meron, as well as Prosecutor Brammertz, and I thank them for today's briefings. I would like to assure you, Mr. President, and the highest officials of the MICT present in the Chamber today, of Croatia's full support for the mission and work of the Mechanism.

As a victim of the brutal aggression in 1990s, during which numerous war crimes and crimes against humanity were committed on its territory and against its people, Croatia was a strong supporter of the establishment of the International Tribunal for the Former Yugoslavia (ICTY) . We have placed our trust in the Tribunal to serve as a shield against the extreme level of brutality exercised during the aggression and to properly punish the perpetrators of the worst crimes committed in Europe since the Second World War. With that purpose in mind, from the very beginning of the ICTY's work, in 1993, until its closure, at the

end of 2017, Croatia closely and fully cooperated with the Tribunal.

Unfortunately, after more than 25 years, a significant number of victims and their families still have not found long-awaited justice. Croatia therefore fully supports the Mechanism and its continued efforts to bring to justice the most prominent perpetrators of the horrible crimes committed during the 1990s on the territory of the former Yugoslavia.

Croatia did not hesitate to do its part in ensuring accountability. It is worth repeating that an important part of Croatia's accession to the European Union (EU) — and we shall soon celebrate the fifth anniversary of our EU membership — was a thorough reform of the Croatian judicial system. The reform included creating the specialized War Crimes Chambers and aligning it with the highest international war crimes prosecution standards. Full and unequivocal cooperation with the ICTY was an essential part and parcel of Croatia's EU accession process, and we have spared no effort in meeting all ICTY's cooperation requests. That is precisely the approach that we expect from all States in the region, especially from Serbia and Bosnia and Herzegovina. It is pivotal that they establish independent and impartial judiciaries and show restraint when it comes to any form of manipulation in investigations and prosecution processes in all types of cases, either those initiated by domestic prosecutors or those transferred to national courts by the ICTY.

In order to persist on this path and deliver results, a strong political commitment is required, as well as a more decisive approach in processing war crimes, in particular those related to the highest military ranks. Similarly, full cooperation with the Mechanism is essential, and, in that regard, the EU's principled and consistent conditionality policy serves as a strong impetus, but also as an essential control mechanism.

We remain very concerned that Serbia's lack of cooperation with the Tribunal continues with the Mechanism as well. We underline the need for Serbia to fully cooperate with the Mechanism, including by fully accepting and implementing all of its rulings and decisions. In addition, bearing in mind Serbia's continuous disregard for some of the decisions of the ICTY and the Mechanism, it would be contrary to the main principles and interests of justice to hand over to Serbia the case *Prosecutor v. Petar Jojić et al.*

Cooperation with the Mechanism, as previously with the Tribunal, as well as regional cooperation among the States concerned pertaining to war-crime issues have no alternative. Nonetheless, it has to be emphasized that regional cooperation is not a one-way street. It implies trust among the States concerned and goes hand-in-hand with a willingness and sincere commitment on the part of all States to prosecute war crimes, without any double standards or exemptions in relation to their nationals or members of certain national groups.

As just mentioned by the Serbian Minister of Justice in her statement, in a recent meeting between the Croatian and Serbian Ministers of Justice — conducted in a spirit of readiness to enhance cooperation — there was agreement on the establishment of two joint committees: one would work on bilateral agreement on cooperation regarding the prosecution of war crimes, and the other on the exchange of lists of persons accused or convicted of war crimes. In the same vein, with a view to resolving existing open issues in that area, the Croatian Minister of Justice invited his Bosnian-Herzegovinian colleague to Zagreb for a meeting, which we expect to take place next week.

With respect to the reports we have before us (see S/2018/347 and S/2018/471), I have to stress that the practice of naming unindicted co-conspirators in a joint criminal enterprise is contrary in particular to the European legal tradition, but also to the practice of a number of American courts. That practice explicitly goes against the main human rights standards and rules, such as the right to a fair trial or the right to a good name and reputation. That is particularly the case when the named persons are deceased and do not have the possibility to review the judgement in a separate procedure. I will not enter into legal and other reasoning behind that well-established legal standard, but will only briefly remind the Council and the participants in the discussion of the main principle of criminal law — everyone charged with a criminal offence shall be presumed innocent until proved guilty by the competent court in an inter partes procedure according to law. In addition, there is no legitimate interest or significant justification for naming unindicted co-conspirators in the ICTY or Mechanism's judgements, or in the formal statements of its highest officials.

We are deeply concerned about the widespread practice throughout the region of denying past wrongdoing — a practice that goes hand-in-hand

with the glorification of war criminals and the crimes committed. Part of that practice is revisionism, with its devastating effects on the stability of the region. Croatia therefore strongly condemns threats that Vojislav Šešelj, a convicted war criminal and current member of the Serbian National Assembly, made against the representatives of Croats in Vojvodina, Serbia.

When he was interviewed only a few hours after the Appeals Chamber sentenced him to 10 years in prison for crimes against humanity against Croats in Vojvodina in 1992, Šešelj openly stated that he would readily repeat the crimes he was convicted of, and of which he is proud. Regrettably, Serbian authorities remained silent to those repeated outrageous outbursts of hate against the Croatian minority in Vojvodina and beyond, and Mr. Šešelj is still sitting on the Serbian Parliament, contrary to Serbia's own legislation.

As confirmed by the ICTY and the Mechanism's judgements, hate speech and outrageous statements can result in catastrophic consequences, instigating war crimes and crimes against humanity. Politicians and high-level officials bear particular responsibility for unmasking such statements, their full meaning and contextualization, as well as for their absolute rejection and condemnation. That is precisely what we expect from Serbian officials, exposing Šešelj's words for what they really are, that is, evil gibberish of a convicted war criminal.

Croatia pays great attention to the remaining cases before the Mechanism, in particular the *Prosecutor v. Stanišić and Simatović* case. We have every confidence that the prosecution will provide the Trial Chamber with enough evidence to determine beyond any doubt Stanišić and Simatović's criminal responsibility in the armed conflict in Croatia and Bosnia and Herzegovina, as well as their role in the joint criminal enterprise as established by the ICTY in the case of aggression against Croatia and Bosnia and Herzegovina. We are convinced that a similar joint criminal enterprise with the purpose of establishing an ethnically homogeneous Serbian State in Bosnia and Herzegovina by criminal means will also be determined in the final judgements in the *Karadžić* and *Mladić* cases.

Before concluding, allow me to stress that the issue of missing persons is at the top of Croatia's agenda, which aims to take all measures to account for persons who perished, or remain missing, and provide their family members with any information on their fate. To that end, the strengthening of cooperation among States in the region is of the utmost importance, which includes the opening of all archives — something for which Serbia still does not show readiness. We find the Mechanism to be well-placed to play a supportive role in that regard.

Finally, let me conclude by stating that Croatia remains firmly committed to the development of good relations and cooperation with neighbouring States, and we strongly support their aspirations towards European Union membership based on full compliance with the membership conditions.

The President (*spoke in Russian*): I now give the floor to the representative of Rwanda.

Mrs. Rugwabiza (Rwanda): First of all, it my pleasure to congratulate you, Mr. President, and Russia on assuming the presidency of the Security Council during the month of June. Let me assure you of Rwanda's full cooperation and active participation during your presidency.

I thank Judge Meron and Prosecutor Brammertz for their reports (see S/2018/347 and S/2018/471) and briefings. I also take this opportunity to particularly thank the Office of the Prosecutor, and Prosecutor Brammertz himself, for the favourable cooperation between his Office and the Prosecutor and judicial authorities in Rwanda, including cooperation on the apprehension of the remaining fugitives who are still at large.

This is a fitting occasion to assess the results and effectiveness of an important institution for international justice. In the light of the magnitude of the challenges to justice in the post-genocide era in Rwanda, my Government accords particular importance to an international mechanism that is functional and can reinforce our own efforts in ensuring justice after the atrocious crimes of the 1994 genocide against the Tutsi in Rwanda.

The International Criminal Tribunal for Rwanda (ICTR) was a pioneer in establishing a credible international criminal justice system. Some of its achievements, especially the verdicts it delivered in relation to rape and media as weapons of perpetrating genocide, remain significant milestones for jurisprudence on genocide.

With those positive achievements in mind, it should be a matter of concern to all of us that the legacy of the

ICTR and the credibility of the International Residual Mechanism for Criminal Tribunals are seriously at stake. Since the Mechanism was established, in 2012, it has released, before the end of their sentences, more than 10 masterminds of the genocide against the Tutsi in Rwanda. Those early releases were granted in non-transparent circumstances and using inconsistent procedures. It is worth noting that the Mechanism was not able to apprehend or prosecute a single genocide fugitive during the same period due to the lack of cooperation by Member States.

A few weeks ago, my Government was very surprised to receive, for the first time, a request from the President of the Mechanism for an opinion on three additional applications for early releases of genocide convicts. We were surprised because the Government had never received such a request in the six years of the existence of the Mechanism. While we appreciate the opportunity to provide our opinion, which we did, that unique request from the Mechanism underlines the lack of transparency and the inconsistency we have been denouncing for a long time. It also demonstrated that the decision not to seek the opinion of the Government of Rwanda before or not to consult the associations of victims and survivors before was at the personal discretion of the President of the Mechanism and was never a matter of his role. One may ask what allowed the Mechanism to seek our opinion this time even as the rules have remained unchanged. I would like to elaborate a bit on a point made earlier regarding the failing credibility of the Mechanism due the lack of transparency on the issue of early releases.

In Rwanda we believe that the purpose of incarceration is to rehabilitate individuals. Therefore, what we are opposed to is not the principle of early release in itself. Let me remind the Council that there is no country on Earth, no jurisdiction, that has to date commuted the sentences of or released early more convicts of genocide than Rwanda has. The problem lies in the lack of transparency and accountability in the process used by the Mechanism to effect those early releases. The problem lies in the criteria that are being used. The problem lies in the lack of consideration of the gravity of the crimes committed. The problem lies in the lack of consideration of the total absence of remorse expressed by those who are benefitting from those early releases. The decisions have been made solely by the Mechanism's President. The Government of Rwanda and the associations of victims and survivors have learned about those decisions in the media.

We continue to wonder what weight was given to the gravity of the crimes committed by those convicts. We continue to wonder what weight was given to their lack of remorse. We continue to wonder what the Mechanism, and particularly those who have made those decisions, think when they themselves hear those released denying their crimes and the genocide against the Tutsi. A number of those who have benefitted from early release have since regrouped and formed an association denying the 1994 genocide against the Tutsi and repropagating the genocide ideology. They are free to undertake such criminal activities without fear of consequences because they were released without conditions. That will remain a part of the Mechanism's legacy. The Mechanism and its current President will not be able to escape that legacy.

I would like to point to some of the best practices of the Special Court for Sierra Leone. I will spare the time of the Council and reference its Practice Direction on the Conditional Early Release of Persons Convicted by the Special Court for Sierra Leone, issued on 1 October 2013. Those best practices provide a robust set of accountability mechanisms that the Residual Mechanism could itself use. We expect and we hope that the Council will be able to advise the Mechanism to consider those best practices.

The first practice is under the eligibility criteria for consideration for conditional early release. The Special Court requires that to be eligible for early release a convict has to prove a "positive contribution to peace and reconciliation in Sierra Leone", such as "public acknowledgement of guilt, public support for peace projects, public apology to victims, or victim restitution". The individuals being released by the Mechanism are well known to deny the historical facts for which they were convicted.

The second practice of the Sierra Leone Court is stringent requirements for supervision, restitution to victims, renunciation of ideologies contrary to peace and reconciliation, and proposed areas of resettlement. We believe that such elements are lacking in the Mechanism's process of determining eligibility for early release. Yet they are reasonable accountability mechanisms. There is absolutely nothing extraordinary about requesting accountability, and it is a mechanism

that needs to be put in place to ensure that released convicts do not re-engage in criminal activities.

Thirdly, the Special Court requires that witnesses, victims, the Government of the home State and representatives of requested areas of release are all informed and engaged regarding early releases. In particular, they should have an opportunity to provide their opinion on requests for early releases prior to the Court's decision. As I mentioned earlier, we are happy that for the first time in the six years of the Mechanism we received a request a few weeks ago for the Government's opinion.

Rwanda has shared its concerns in various interactions with the Mechanism, with both the President and the Prosecutor. No change has been made to date to the rules of procedure for early release. We are aware, however, of the constructive attempts by a number of judges and the Prosecutor to amend the current rules with stronger provisions for accountability and obligations of transparency. However, we regret the current paralysis on the matter, as there has yet to be any change.

In conclusion, allow me to submit two very modest suggestions to the Council.

First, the Mechanism should be urged to put in place clear rules of procedure for early releases and to apply them transparently instead of leaving such a grave decision of early release to personal discretion rather than rules. The credibility of the Mechanism and its legacy and contribution to the fight against impunity are at stake.

Secondly, rules of procedures to be put in place should include conditions to prevent genocide convicts benefiting from early releases from engaging in future activities promoting genocide ideology and denial. Again, the rules of procedure of the Special Court of Sierra Leone can serve as best practices. We are not asking for anything to be reinvented. Rather, we are offering those best practices for consideration and implementation.

Let me end my remarks by thanking the President and the Council once again for this opportunity to explain our concerns.

The meeting rose at 1 p.m.